

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

REC'D 16 JUL 2004

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Applicant's or agent's file reference PU4797WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/US 03/29482	International filing date (day/month/year) 17.09.2003	Priority date (day/month/year) 19.09.2002
International Patent Classification (IPC) or both national classification and IPC C07D277/28		
Applicant SMITHKLINE BEECHAM CORPORATION et al		


1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 17.03.2004	Date of completion of this report 19.07.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Allard, M Telephone No. +31 70 340-2002



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/US 03/29482**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

Description, Pages

1-11 as originally filed

Claims, Numbers

1-8 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	-
	No: Claims	1-8
Inventive step (IS)	Yes: Claims	-
	No: Claims	1-8
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	-

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US 03/29482

Reference is made to the following documents:

D1: WO 02/059098 A (GLAXO GROUP LIMITED) 1 August 2002 (2002-08-01)

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Novelty (Article 33(2) PCT)

D1 discloses amongst others at page 76, lines 5-33, the preparation of compounds (II) (according to the present application), used at page 76, line 35, to age 79, line 14, in the preparation of compounds (I) (according to the present application). D1 affects therefore the novelty of claims 1-3 of the present application. It should furthermore be noted that the compounds (II) prepared at page 32, line 14, to page 33, line 16, are used in the preparation of esters of compounds (I) at page 33, line 30, to page 34, line 21, esters which in turn are hydrolysed to the acids (I). This process via the esters falls also within the scope of claims 1-3.

D1 discloses at page 43, lines 24-28, a compound (II) which, by analogy with the example bridging pages 42 and 43, is prepared from the corresponding 4-hydroxymethyl derivative (III). D1 affects therefore also the novelty of claims 4-8 of the present application.

Inventive step (Article 33(3) PCT)

As claims 1-8 lack novelty, there is no basis for the acknowledgement of an inventive step.

Industrial applicability (Article 33(4) PCT)

The processes of claims 1-8 are applicable in the pharmaceutical industry.